

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

FILED

APR 16 2018

Clerk, U.S. District Court
Texas Eastern

JASON LEE VAN DYKE,
Plaintiff,

v.

**CASE NO. 4:18-CV-00247-ALM-
CAN**

THOMAS RETZLAFF,
Defendant.

**Defendant's Motion To Take Judicial Notice That "The Proud Boys" Are A
White Supremacist Hate Group**

Defendant asks the Court to take judicial notice of facts, as authorized by
Federal Rule of Evidence 201.

A. INTRODUCTION

1. Plaintiff is Jason Lee Van Dyke; defendant is Thomas Retzlaff.
2. In his original petition, Van Dyke sued Retzlaff for libel per se, intrusion on seclusion, tortious interference with contract – Victoria County, tortious interference with contract – KLR, and intentional infliction of emotional distress. Van Dyke further requests injunctive relief in the form of both a temporary restraining order and a permanent injunction.

3. Retzlaff asks the Court to take judicial notice of the fact that The Proud Boys, the organization for which Van Dyke is a leader, officer, General Counsel, and official spokesman for, is a white supremacist hate group.

B. ARGUMENT

4. A court has authority to take judicial notice of adjudicative facts. The court can take judicial notice of facts that are not subject to reasonable dispute if the facts either (1) are generally known within the court's territorial jurisdiction or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned. Fed. R. Evid.

201(b); *Ritter v. Hughes Aircraft Co.*, 58 F.3d 454, 458 (9th Cir. 1995); *see Dippin' Dots, Inc. v. Frosty Bites Distrib.*, 369 F.3d 1197, 1204-05 (11th Cir. 2004).

5. A court must take judicial notice of a fact if a party properly requests it and supplies the court with the necessary information. Fed. R. Evid. 201(c)(2). Attached as an Exhibit is the necessary information for this Court to take judicial notice of the requested facts, which is an official statement from the Southern Poverty Law Center (SPLC) designating *The Proud Boys*

as a white supremacist hate group and listing plaintiff Van Dyke has its lawyer and official spokesman. See SPLC report, bottom of pg. 8. As the Court knows, the SPLC's classification and listings of hate groups and extremists (organizations and people that, in its assessment, "attack or malign an entire class of people, typically for their immutable characteristics") are considered authoritative by academic and media sources.

6. If a party makes a timely request, the party is entitled to a hearing on the propriety of taking judicial notice and the nature of the fact to be noticed. Fed. R. Evid. 201(e). Therefore, Retzlaff asks the Court to hold a telephonic hearing to consider this motion.

Respectfully submitted,



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DEFENDANT, PRO SE

CERTIFICATE OF SERVICE

I certify that on April 11, 2018, a copy of this document was served
upon plaintiff via 1st class US Mail at his residence of:

Jason L. Van Dyke, 108 Durango Dr., Aubrey, TX 76227.

A handwritten signature in black ink, appearing to read "Tom", is positioned above a horizontal line.

Thomas Retzlaff